

REMARKS

Applicants appreciate the thorough examination by the Examiner. Applicants acknowledge that claims 1-9 and 24-36 are allowed as filed. Further, Applicants acknowledge that the Examining Attorney has identified allowable subject matter appearing in claims 11, 14, 15, 21, 22, 42, and 43.

English Abstract of French Patent 2,606,998 Provided

The Examiner states that the information disclosure statement fails to comply with 37 CFR 1.98(a)(3) because it does not include a concise explanation of the relevance of French Patent No. 2,606,998. Applicants submit herein an abstract of the subject French patent in the English language (see Exhibit A). As described, the subject patent discloses a knee support or sleeve having an opening and a removable foam wedge adjacent the opening. The wedge is connected at its ends to adjustable elastic straps (see Fig. 2). Applicants request that the Examiner please consider the subject patent in view of the abstract and explanation provided.

The Examiner's Objections

The Examiner objects to claims 38 and 45 because there is insufficient antecedent basis for the term "buttress" as appearing in line 3 of claim 38 and the last two lines of claim 45. As amended above, independent claim 37—from which claims 38 and 45 depend—now recites the buttress. Accordingly, sufficient antecedent basis for the buttress appearing in claims 38 and 45 is now provided in amended claim 37.

The Examiner's Rejections

The Examiner rejects claims 10, 12, 13, 16-20, 23, 37-41, and 44-49 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5759167 to Shields.

The Examiner also rejects claims 37-41 and 44-49 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5865776 to Springs.

The Examiner further rejects claims 37, 41 and 44-49 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent Application No. 2004/0153017 to Simmons.

In response to the Examiner's rejections, Applicants submit amended claims and address the Examiner's concerns herein below.

Amended Independent Claim 10 is Not Anticipated by Shields

The Examiner rejects, among others, independent claim 10 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5759167 to Shields. In objecting to claim 11 as being dependent upon a rejected base claim (*i.e.*, claim 10), the Examiner states that the subject claim would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Accordingly, Applicants have amended independent claim 10 to incorporate the subject matter of claim 11. Specifically, independent claim 10 now recites the base having an internal planar side and an external planar side, wherein the external planar side includes fasteners for removably attaching a portion of the base, the buttress, and the tensioning member to a portion of the external planar side. Thus, Applicants submit that amended claim 10 is not anticipated by Shields and is now allowable.

Amended Independent Claim 37 is Not Anticipated by Shields

The Examiner rejects, among others, independent claim 37 under 35 U.S.C. § 102(b) as being anticipated by Shields, U.S. Patent No. 5865776 to Springs, and U.S. Patent Application No. 2004/0153017 to Simmons. In objecting to claim 42 as being dependent upon a rejected base claim (*i.e.*, claim 37), the Examiner states that the subject claim would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Accordingly, Applicants have

amended independent claim 37 to incorporate the subject matter of claim 42. In particular, amended independent claim 37 now recites that the first step of extending a portion of the brace against the knee to apply a first force comprises the steps of (1) extending a buttress having one portion secured to the brace across at least a portion of the opening and against the knee to apply a first force against portions of the knee in the opening, and (2) removably attaching another portion of the buttress to the brace such that the buttress covers at least a portion of the knee in the opening. Thus, Applicants submit that amended claim 37 is not anticipated by Shields, Springs, or Simmons and is now allowable.

Amended Dependent Claims now Conform to the Amended Independent Claims

Applicants have undertaken the following actions to ensure that the dependent claims now conform to the amended independent claims. Applicants have cancelled dependent claim 11 as the subject contained therein has been incorporated into independent claim 10. Further, Applicants have cancelled dependent claim 42 as the subject matter contained therein has been incorporated into independent claim 37. Claim 38 is amended to reflect the incorporation of the subject matter of claim 42 into independent claim 37. Applicants have also amended claim 43 to reflect proper dependency on amended independent claim 37 as opposed to cancelled claim 42.

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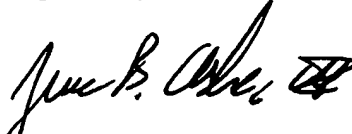
In re: Gaylord
Serial No. 10/624,065
Page 18

Confirmation No. 5160
Filed: July 21, 2003

CONCLUSION

Based on foregoing amendments and arguments, Applicants submit that pending Claims 1-10, 12-41, and 43-49 are now in immediate condition for allowance, and the same is respectfully requested. Presently, the fee for the total number of all claims (*i.e.*, 47) pending in this application is less than or the same as the total number of claims (*i.e.*, 49) that Applicants paid for at filing. Thus, Applicants believe that no additional fees are due. Nevertheless, the Commissioner is authorized to charge any additional fee, or credit any refund, to our Deposit Account No. 50-0332.

Respectfully submitted,



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Enclosure
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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450 on November 1, 2005.

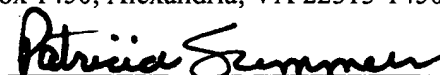

Patricia Summers

EXHIBIT A

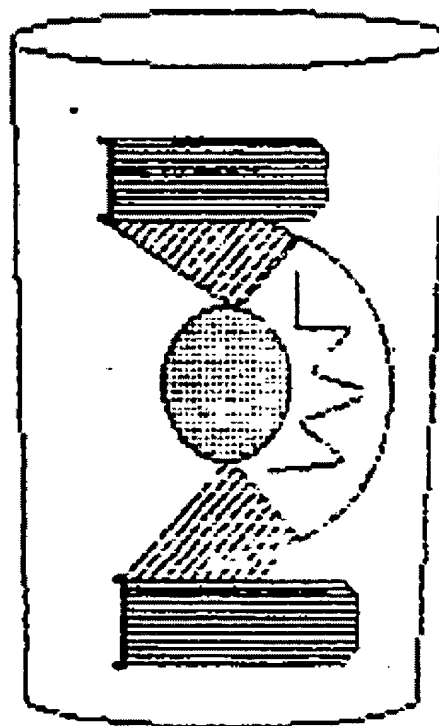
Patella-press knee support

Patent number: FR2606998
Publication date: 1988-05-27
Inventor:
Applicant: BONVARLET JEAN PAUL (FR)
Classification:
- international: A61F5/00
- european: A61F13/06B
Application number: FR19860016608 19861126
Priority number(s): FR19860016608 19861126

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Abstract of **FR2606998**

Knee support which stabilises the patella, made of elastic fabric, comprising a frontal recess receiving the front face of the patella. It is characterised by the use of a foam wedge at the inner face, which is removable, of variable thickness, and is itself coupled to an elastic system, allowing the tension of application of this wedge to be altered, thus allowing patellar subluxations to be combatted.



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Vue interieure Face Antérieure

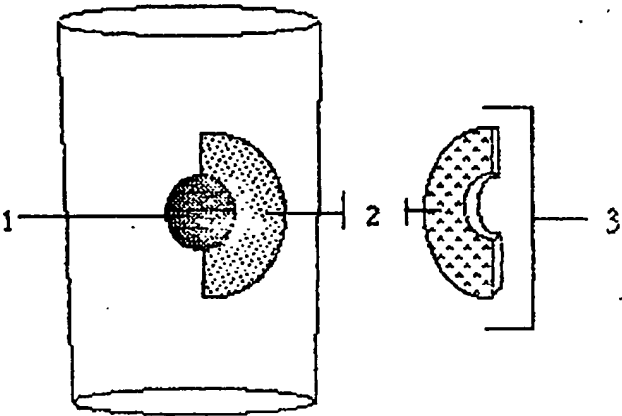
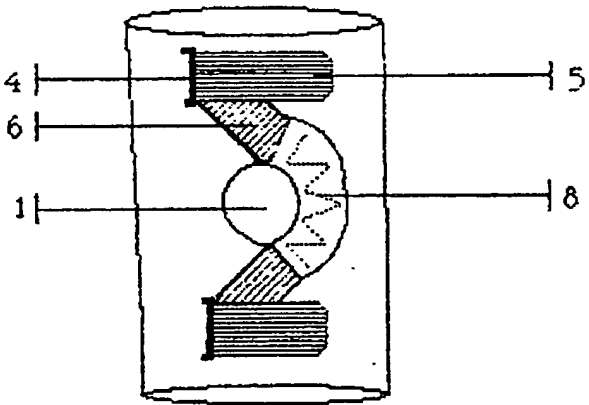


Fig 1.



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Fig 2 .